IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

WP(C).No. 33079 of 2006(K)

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PETITIONER:

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THE EXECUTIVE TRUSTEE,
KANATE FOUNDATION, TALIPARAMBA.

BY ADV. SRI.KURIAN GEORGE KANNAMTHANAM (SR)
SRI.TONY GEORGE KANNANTHANAM
SRI.THOMAS GEORGE

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY HEALTH AND FAMILY WELFARE
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE COMMON ENTRANCE COMMISSIONER,
THIRUVANANTHAPURAM.

3. THE KANNUR UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,
KANNUR UNIVERSITY CAMPUS P.O., KANNUR.

BY ADV. SRI.M.SASEENDRAN,SC,KANNUR UNIVERSITY
GOVERNMENT PLEADER SRI.N.SUDHA DEVI
ADV.SRI.KURIAN GEORGE KANNANTHANAM (Sr.)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/01/2007, ALONG WITH WPC NO. 33083 OF 2006 THE COURT ON 08/01/2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: Copy of G.O.(Rt)No.3329/2004/H&FWD dated 27-11-2004 of the Health & Family Welfare (C)Department.

Ext.P2: Copy of letter dated 4-5-2005 issued from the Secretary of Indian Nursing Council.

Ext.P3: Copy of communication dated 1-9-2005 issued from the 3rd respondent.

Ext.P4: Copy of judgment dated 26-9-2006 in W.P.(C) No.24258/06 of this Hon'ble Court.

Ext.P5: Copy of order no.G.6398/05/NC dated 25-11-2006 of the Registrar of Kerala Nurses & Midwives Council.

Ext.P6: Copy of judgment dated 14-11-2006 in W.P.(C)29274/06 of this Hon'ble court.

Ext.P7: Copy of order G.O.(MS)No.250/2006/FWD dated 24-11-2006 of the Health & Family Welfare (C)Department.

Ext.P8: Copy of judgment dated 22-11-2006 in W.P.(C) No.26413/06 of this Hon'ble court.

// True copy //

P.A. to Judge

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**C.N.RAMACHANDRAN NAIR, J.**

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W.P.(C)Nos.33079 & 33083 OF 2006

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Dated this the 8th day of January 2007

**JUDGMENT**

Petitioners in these two writ petitions are hospitals which have been granted approval by the Nursing Council of India and the Kerala Nurses and Midwives Council to commence B.Sc. Nursing course in their nursing colleges in the academic year 2006-2007. Since approval from the Kerala Nurses and Midwives Council was obtained only on 25-11-2006, application for affiliation of the colleges are pending with the concerned universities. Separate counsel appearing for both the Universities submitted that if applications are submitted, the University will consider the same in accordance with the norms. Counsel for petitioner submitted that Government has put an embargo against granting affiliation for new courses and institutions pending finalisation of policy decision by the Government about the requirement of new courses and new institutions. Since nursing course is a four year course and since in other colleges courses are just commencing, the prayer in the writ petition is for direction to second respondent to allot

students from the merit quota for the petitioners to commence course this academic year itself. Petitioners stated that they have already admitted students pursuant to interim order of this court dated 19-12-2006.

2. Government Pleader submitted that this court has put 24-11-2006 as a last date for allotment of students to nursing colleges from merit quota. However, it is conceded that Government extended the date till 31-12-2006 for some colleges. Eventhough recent judgment of this court entitles the management to fill up full seats under management quota, counsel for petitioners submitted that petitioners are willing to take students from merit quota upto 50% of seats available. Since the other colleges have just commenced the course and since petitioners have admitted students in management quota and since the course duration is for four years, I feel the 50% vacancy available in the colleges should be filled up in public interest.

In the circumstances, Commissioner of Entrance Examination is directed to send from the list of remaining

students in the merit list, who have not been allotted seats so far in any other college, sufficient number of students for admissions in the two colleges within ten days from the date of production of copy of this judgment. If he fails to do so, there shall be direction to petitioners to take students from the same list in the order of merit and fill up all vacancies. Eventhough Government has not taken any policy decision with regard to number of nursing colleges to be permitted in the state, assume Government has such power, I feel petitioners who have started the college with the approval of the nursing councils both at the state and centre should be permitted to start the course without waiting for decision taken by the Government on Policy matters. Therefore, there will be direction to the concerned universities to grant affiliation with effect from the academic year 2006-07 itself, if the colleges are found to be eligible for it and it should be granted without waiting for clearance from Government.

**C.N.RAMACHANDRAN NAIR, JUDGE**

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